

1 CAMPEAU GOODSELL SMITH, L.C.
2 SCOTT L. GOODSELL, #122223
3 WILLIAM J. HEALY, #146158
4 440 N. 1st Street, Suite 100
5 San Jose, California 95112
6 Telephone: (408) 295-9555
7 Facsimile: (408) 295-6606

8 ATTORNEYS FOR Debtors

9

10

11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13

14 IN RE:) Case No. 09-51900 ASW
15 BENYAM and PAULA R. MULUGETA,) CHAPTER 11
16)
17 Debtors.) Date: May 26, 2009
18) Time: 2:00 p.m.
19) Room: 3020
20)
21) Judge: The Honorable Arthur Weissbrodt
22)
23)
24)
25)
26)
27)
28)

17 **STATUS CONFERENCE STATEMENT**

18 Debtors BENYAM and PAULA R. MULUGETA (jointly "Debtors") submit this
19 Status Conference Statement.

20 **I. Summary Background Regarding Debtors, The Cause Of The Bankruptcy,
21 And Debtors' Anticipated Plan.**

22 Debtors are the owners of seven (7) distinct residential and commercial properties,
23 generally described as follows:

- 24 *Harker (Debtors' residence-a 5 bedroom 3 bath property located in Palo Alto);
25 *Harrison (a 5 story, 156 room hotel located in Oakland);
26 *Grand (a four story 21-unit apartment building with associated commercial units);
27 *O'Keefe (a 21-unit apartment building located in East Palo Alto);
28 * Chaucer (2 single family homes (duplex) located in Berkeley);
-

STATUS CONFERENCE STATEMENT

1 *Sevier (a single family residence located in Menlo Park used as a rental property); and
2 *Brann (a single family home used as a rental).

3 Debtors commenced this bankruptcy for two primary reasons: first, the conversion the
4 hotel at Harrison increased Debtors' debt, impacted their cash flow, and drained resources
5 and second, the primary lender on Harrison, immediately upon learning of a pending sale
6 and escrow for Harrison at \$7,000,000, significantly more than its first lien of approximately
7 \$3,500,000, moved for appointment of a receiver. In addition, Debtors were also subject to
8 impending trustee sales on their two other properties

9 Harrison was purchased by Debtors' in approximately April 2002 for \$4,100,000.
10 Thereafter, in order to maximize the potential value of the hotel and property, Debtors'
11 investigated several options which were subject to the City of Oakland's restrictions.
12 Debtors' elected to develop the Harrison hotel to a similar, albeit slightly different use, but
13 the City of Oakland required the property to be empty for one year. Debtors pursued this
14 development opportunity in light of the potential return on the investment and increase to the
15 property's value.

16 The cost of this development and the vacancy required by the City of Oakland impacted
17 Debtors' income, cash flow at all properties, and drained resources.

18 **A. Bankruptcy.**

19 Debtors commenced this case on March 18, 2009, first retained counsel on April 2,
20 submitted to an Initial Debtor Interview on April 16, 2009, and had their Meeting of
21 Creditors scheduled for April 22, 2009. Debtors will be filing monthly operating reports and
22 amended schedules and providing the United States Trustee with request information.

23 **B. Sale/Lease of Harrison Hotel.**

24 Pre-petition Debtors entered into a contract to sell the Harrison hotel for \$7,000,000 to
25 Trading Spaces, LLC, an operator of assisted living facilities, as part of series of real estate
26 purchases by Trading Spaces, LLC and with an appraised "as is" value of \$8,100,000 and a
27 projected value after renovation at \$14,310,000 (April 17, 2009). Debtors believe that
28 Trading Spaces, LLC has the ability to close this transaction.

29 Debtors anticipate filing a motion to sell the Harrison hotel to Trading Spaces, LLC

1 within the next week. Debtors have remained in contact with Trading Spaces, LLC which
2 appears to have completed its due diligence and is securing its financing.

3 Debtors anticipate approximately \$3,000,000 in net proceeds from the sale of the
4 Harrison hotel. Debtors anticipate using the sale proceeds to address its post-petition and
5 pre-petition arrearages and debts and exiting bankruptcy by way of a dismissal or plan.

6 In February 2009, Debtors received a similar purchase offer at \$9,000,000, subject to
7 other terms and conditions relating to construction costs.

8 In addition, Debtors are negotiating a potential long term lease of Harrison, one to the
9 Veterans Association (“VA”) and to one of the potential purchasers. The potential terms of
10 the lease opportunities allows Debtors to maintain ownership of the property, receive
11 approximately \$500,000 in cash, become cash flow positive with estimated monthly rents
12 revenue of \$45,000, and propose a plan to reorganize their debts and exit bankruptcy.

13 **C. Debtors’ Status On Grand (a four story 21-unit apartment building with
14 associated commercial units) and O’Keefe (a 21-unit apartment building located
in East Palo Alto).**

15 As to Grand, Debtors have been working diligently to ready Grand for leasing/renting,
16 anticipate making their June payment on Grand, and anticipate making subsequent payment
17 on Grand. Grand should generate approximately \$27,500 a month against an approximate
18 \$10,000 first mortgage. Grand was purchased in March 2002 for \$2,100,000.00, was
19 appraised by the lender in March 2004 at \$2,510,000.00 when it generating approximately
20 \$16,000-\$17,000/month in rent revenue and was appraised in December 2008 by the lender
21 (Holberg & Associates, appraiser) in December 2008. Although the lender has refused to
22 provide a complete copy of the December 2008 appraisal, the limited portions of the
23 appraisal reference three different appraisal values: “As If Completed and Stabilized”:
24 \$3,380,000; “As If Completed”: \$3,160,000; and “As Is”: \$1,960,000. Debtors’ submit
25 Grand has, using the appraisals own terminology, a value of \$3,160,000 or \$3,380,000.

26 As to O’Keefe, Debtors have been working diligently on renting O’Keefe, have the
27 various units rented, and on May 14, 2009, Debtors attempted to make a post-petition
28

1 payment on O'Keefe, but the lender refused to accept payment. O'Keefe should generate
2 approximately \$21,000 a month against an approximate \$9,500 monthly first mortgage.
3 Debtor's schedules list the value of O'Keefe at \$2,800,000 based on Debtors' own valuation
4 and two offers from sophisticated commercial property owners, including a July 2007
5 purchase contract with Page Mill Properties, LLC. at \$2,800,000. Debtors' lender secured an
6 appraisal at \$2,180,000.00.

7 Grand and O'Keefe are necessary elements to Debtors' potential plans for
8 reorganization, necessary to pay various secured creditors, and potentially necessary to pay
9 unsecured creditors and part of Debtors' real estate portfolio which they are committed to
10 maintain.

11 **E. Debtors Have Several Junior Secured Creditors On The Various Properties.**

12 Debtors have various junior creditors on the various properties, including CMR Fund
13 II, LLC, (file a Chapter 11 Voluntary Petition for bankruptcy on March 31, 2009, the
14 Honorable Thomas E. Carlson presiding, USBC CA #09-30788)¹, Tomoko Nakama, and
15 Robert Taylor.

16 Debtors have opposed and will oppose motions for relief from stay to protect their
17 investments, protect the equity and cash flows associated with these properties, and protect
18 the interest of these various junior secured creditors. A foreclosure sale relative to Debtors'
19 properties, including Grand and O'Keefe will severely jeopardize Debtors' ability to pay
20 their junior creditors.

21 Debtors anticipate paying these junior creditors from the lease/rent proceeds and/or sale
22 of property(ies).

23 **F. Other Actions By Debtors.**

24 Debtors are working with the lenders on their residence for loan modification in order
25 to address associated payment obligations. Debtors are working diligently to lease/rent
26 available units and become cash flow positive sufficient to once again timely making
27

28 ¹Apparently Bay View Asset Services, LLC took assignment of CMR's rights

1 required payments.

2 **II. Recommendation.**

3 Debtors recommend the Court continue the Status Conference for 60-90 days so
4 Debtors can file the motion to sell the Harrison hotel, continue to increase lease/rent revenue,
5 become cash flow positive, and either move to dismiss this case or submit a formal plan of
6 reorganization.

7 Dated: May 21, 2009

/s/ William J. Healy
William J. Healy

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28